



BUDGET, PERSONNEL, AND FINANCE (BPF)

STANDING COMMITTEE MEETING

SPECIAL MEETING NOTICE AND AGENDA

JANUARY 26, 2016 – 3:30 PM

CITY HALL – COMMUNITY ROOM

117 MACNEIL STREET  
SAN FERNANDO, CA 91340

**CALL TO ORDER/ROLL CALL**

Councilmember Robert C. Gonzales (Chair)  
Mayor Joel Fajardo

**PLEDGE OF ALLEGIANCE**

Councilmember Robert C. Gonzales

**APPROVAL OF AGENDA**

**PUBLIC STATEMENTS – WRITTEN/ORAL**

There will be a three (3) minute limitation per each member of the audience who wishes to make comments relating to City Business. When addressing the Standing Committee please voluntarily state your name and address.

**COMMITTEE MATTERS**

- 1) **PRESENTATION AND DISCUSSION OF PROPOSED AMENDMENTS TO THE PURCHASING ORDINANCE**
- 2) **PRESENTATION OF FISCAL YEAR 2014-2015 COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)**

# **BUDGET, PERSONNEL, AND FINANCE STANDING COMMITTEE**

Special Meeting Notice and Agenda – January 26, 2016

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## **3) PRESENTATION AND DISCUSSION OF FISCAL YEAR 2016-2017 PROPOSED BUDGET CALENDAR**

### **RECAP OF STANDING COMMITTEE DIRECTIVES**

### **STAFF COMMUNICATIONS**

### **ADJOURNMENT**

*I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 24 hours prior to the meeting.*

*Julie M. Fernandez, Executive Assistant to the City Manager*

*Signed and Posted: January 21, 2016 (12:00 pm)*

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*Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site ([www.sfcity.org](http://www.sfcity.org)). These are also available for public reviewing prior to a meeting in the City Clerk's Office. Any public writings distributed by the BPF Standing Committee to at least a majority of the Standing Committee Members regarding any item on this special meeting agenda will also be made available at the City Clerk's Office at City Hall located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at [www.sfcity.org](http://www.sfcity.org). In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/accommodation to attend or participate in this meeting, including auxiliary aids or services please call the City Clerk's Office at (818) 898-1204 at least 48 hours prior to the meeting.*

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## AGENDA REPORT

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**To:** Chair Robert C. Gonzales and Committee Member Joel Fajardo

**From:** Brian Saeki, City Manager  
By: Nick Kimball, Finance Director

**Date:** January 26, 2016

**Subject:** Presentation and Discussion of Proposed Amendments to the Purchasing Ordinance.

### **RECOMMENDATION:**

It is recommended that the Budget, Personnel and Finance Standing Committee Members:

- a. Review and discuss proposed amendments to the Purchasing Ordinance; and
- b. Provide direction as necessary.

### **BACKGROUND:**

1. Sections 2-771 through 865 of the City Code prescribe the City's purchasing system and process ("Purchasing Ordinance").
2. It does not appear that there has been a substantial review and update of the Purchasing Ordinance since it was originally adopted in 1957.
3. Staff is proposing a comprehensive revision to the Purchasing Ordinance to modernize the Ordinance, update language to reflect the current form of government (i.e. Council-Manager), and increase consistency and clarity throughout the Ordinance.
4. The City Attorney has reviewed the proposed Ordinance to ensure it is consistent with applicable state laws and other local purchasing ordinances.

**ANALYSIS:**

The table below summarizes the differences current Ordinance and Proposed Ordinance:

Current	Proposed
	<u>General</u> : Adds multiple definition of terms for increased clarity and continuity.
	<u>General</u> : Changed references to City Administrator to City Manager or Purchasing Agent
Does not include a provision related to financial interest in contracts/POs for current or former employees, councilmembers or commissioners	Adds a provision prohibiting employee, council member, or commission member's financial interest in any contract awarded by City.
	Increases clarity for purchase order requirement, including the requirement to issue a purchase order to accompany contracts (this is to ensure an encumbrance is created to fund the contract)
Does not include a provision related to change orders.	Adds a provision to provide for change orders. For administrative contracts, City Manager can approve change orders up to a total contract amount of \$25,000. For Council approved contracts, City Manager can approve change orders up to \$25,000. Council must approve changes in excess of \$25,000 (unless prior authorization is given when original contract is approved).
Provides bidding exceptions when bidding is: <ul style="list-style-type: none"><li>• Impossible, impractical, incongruous.</li><li>• Piggybacking.</li><li>• Emergency procurement.</li></ul>	Provides bidding exceptions when bidding is: <ul style="list-style-type: none"><li>• Impossible, impractical, incongruous.</li><li>• Price is controlled by law.</li><li>• Amount is less than \$5,000.</li><li>• Equipment are proprietary items of original equipment manufacturers.</li><li>• Equipment is a component for a system of equipment previously acquired by City and is necessary to repair, maintain, or improve utilization of the equipment.</li><li>• Sole source.</li></ul>

## Presentation and Discussion of Proposed Amendments to the Purchasing Ordinance.

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	<ul style="list-style-type: none"><li>• Items are for resale to public.</li><li>• Computer software, software maintenance, or hardware maintenance.</li><li>• Piggybacking on existing contract.</li><li>• Emergency procurement.</li><li>• Professional services.</li><li>• Competitive bids solicited, but no bids received.</li></ul>
Outlines basic formal bid procedures.	Adds Budget Verification and Development of Bid Specifications to bidding procedures.
Outlines basic informal procurement procedures.	Clarifies the administrative authority is \$25,000 per year or less.
Does not include a provision for local bidder preference.	Adds a local bidder preference equal to the current sales tax (i.e. 1.5%).
	<u>General</u> : Additional definitions for Public Projects
Does not include a provision for design build public projects.	Adds a provision authorizing design-build contracts.
Subdivision III – Contracts for Consultants or Special Services	Changes title of Subdivision III to Contracts for Professional Services for clarity and consistency. Also, greatly simplified section to be consistent with the other provisions of the Ordinance.
Does not include a provision for multi-year contracts.	Authorizes multi-year contracts. Administrative contracts not to exceed \$25,000/year. Any multi-year contract exceeding \$25,000/year must be approved by City Council. If the same supplier has been used for a term of 5 years, formal or informal bidding procedures shall apply
Does not include a provision for maintenance of procurement records.	In accordance with state law, includes requirement to maintain procurement related records and make them available for public inspection.
Very limited provision for Bond and Insurance requirements	Expanded provisions for bond, bid security, insurance requirement, etc.

The redline version of the proposed Purchasing Ordinance is included as Attachment A.

**BUDGET IMPACT:**

There is no budget impact to amending the Purchasing Ordinance.

**CONCLUSION:**

Modernizing and updating the Purchasing Ordinance will provide more clarity and consistency to the rules governing the City's purchasing process. It will also provide some flexibility to staff when procuring certain goods and services that do not lend themselves to traditional bid processes.

**ATTACHMENTS:**

A. Proposed Purchasing Ordinance – Redline Version

## ATTACHMENT A

### DIVISION 6. - PURCHASING

#### Subdivision I. - In General

[Sec. 2-771. - Adoption of system.](#)

[Sec. 2-772. - Definitions.](#)

[Secs. 2-773—2-795. - Reserved.](#)

#### Subdivision II. - Supplies, Services and Equipment **Amended**

[Sec. 2-796. - Appointment of purchasing agent.](#) **Amended**

[Sec. 2-797. - General powers of purchasing agent.](#)

[Sec. 2-798. - Duties of purchasing agent.](#)

[Sec. 2-799. - Exemptions from centralized purchasing.](#)

[Sec. 2-800. - Compliance required; effect of noncompliance.](#)

[Sec. 2-801. - Duty of bidders and consultants to disclose relationships with city.](#)

[Sec. 2-802. – Employee interest prohibited.](#)

[Sec. 2-~~802~~803. - Procedures for purchases and sales generally.](#)

[Sec. 2-~~803~~804. - Purchase orders.](#)

[Sec. 2-~~804~~805. - Requisitions.](#)

[Sec. 2-~~805~~806. - Encumbrance of funds.](#)

[Sec. 2-807. – Change orders.](#)

[Sec. 2-~~806~~808. - Bidding exceptions.](#)

[Sec. 2-809. - Interagency purchase agreements \(formerly sec. 2-810 Cooperative agreements\)](#)

[Sec. 2-~~807~~810. - Formal ~~contract~~-bidding procedures.](#)

[Sec. 2-~~808~~811. - Informal bidding procedures.](#)

[Sec. 2-812. – Local bidder preference.](#)

[Sec. 2-~~809~~813. - Inspections and testing.](#)

~~Sec. 2-810. — Cooperative agreements.~~ **Amended**

~~Sec. 2-811~~814. - Minority/women owned or small business purchasing program.

~~Sec. 2-812~~815. - Requirements for public projects.

~~Secs. 2-813~~816—2-835. - Reserved.

Subdivision III. - Contracts for Consultants or Special Services

Sec. 2-836. - Scope.

Sec. 2-837. - Authorization.

~~Sec. 2-838. — Multi-year contracts.~~

~~Sec. 2-838~~839. - Authorized signature on behalf of city.

~~Secs. 2-839~~840—2-865. - Reserved.



## **Subdivision I. - In General**

### **Sec. 2-771. - Adoption of system.**

A centralized purchasing system is adopted to:

- (1) Establish efficient procedures for the purchase of supplies, equipment and services;
- (2) Secure for the city supplies, equipment and services at the lowest possible cost commensurate with quality needed;
- (3) Exercise positive financial control over purchases;
- (4) Clearly define authority for the purchasing functions;
- (5) Ensure the quality of purchases; and
- (6) Buy without favor or prejudice.

(Code 1957, § 21A.1)

### **Sec. 2-772. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Uniform Public Construction Cost Accounting Act found at Public Contract Code Section 22000 et seq.

Bidder means a person, firm, partnership, corporation or other legal entity ~~person or other legal entity responding~~ that submits a written bid proposal in response to a request for written solicitation for bids issued by any department of the city pursuant to section 2-807 or 2-808 of this division.

Change order means a written authorization from the city directing an addition, deletion, or revision to an awarded purchase order or contract.

City manager means the city manager of the city or person designated by the city manager to perform all or some of the duties prescribed in this division.

Consultant means a specially trained and experienced person for special services and advice for the purposes set forth in subdivision III of this division.

Department means any department, agency, commission, bureau or other unit of the city government which derives its support wholly or in part from the city.

Emergency. For the purposes of public projects, as defined in this article, the term "emergency" shall have the meaning provided in California Public Contract Code § 22050. For all other purchasing or contracting purposes, "emergency" shall mean a condition or possible safety situation which makes bidding procedures, either formal or informal, impractical or not in the best interests of the city.

Facility shall have the meaning provided under subsection (e) of Section 22002 of the Public Contract Code, as the subsection may be amended from time to time. In light of this definition, facility includes any building, structure- plant, ground facility, real property, streets and highways or other public work improvements.

General services means any work performed or services rendered by an independent contractor, with or without the furnishing of materials, and includes, but is not limited to the following:

1. "Maintenance work" within the meaning of subsection (d) of Section 22002 of the Public Contract Code which includes (i) routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes; (ii) minor repainting; (iii) resurfacing of streets and highways at less than one inch; (iv) landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems; (v) work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher;
2. Custodial/janitorial services and uniform cleaning services;
3. Vehicle, machinery and/or equipment rental;
4. Repair, modification and maintenance of vehicles and other City equipment;
5. Cleaning, analysis, testing, moving, removal or disposal (other than by sale) of vehicles, equipment, software or supplies;
6. Licensing, installation and maintenance of computer software; and
7. Services for the supply of wholesale utility commodities with private or public suppliers or counterparties for the purchase or sale-incidental-to-purchase of water, gas, electricity and all related supplemental or ancillary services and any other energy or energy-related contract.

The foregoing notwithstanding, "general services" does not include services which qualify as "professional services" as defined herein.

Impossible means actual impossibility or extreme and unreasonable difficulty or expenses.

Impractical means incapable of being performed by the bid procedure.

Incongruous means not suitable to the bid procedure.

Local bidder –means a person, firm, partnership, corporation or other legal entity which: (a) has its principal place of business within the jurisdictional boundaries of the

City; and (b) has continuously maintained a business license with the City for a period of at least twelve (12) months from the date bids are due. ~~means a business having its principal place of operations within the jurisdictional boundaries of the city and that pays sales tax on the items which are subject to the contract or purchase order are allocated to the city.~~

*Lowest responsible bidder* means, in addition to the price as submitted in a responsive bid, the lowest responsible bidder ~~who~~ will be determined after the following factors have been considered:

- (1) -The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (2) -Whether the bidder has the facilities to perform the contract or provide the service within the time specified without delay or interference.
- (3) -The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) -The bidder's record of performance of previous contracts or services.
- (5) -The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (6) -The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) -The quality, availability and adaptability of the supplies, equipment or services to the particular use required.
- (8) -The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- (9) -The number and scope of conditions attached to the bid.

*"Piggyback contract or Piggybacking"* means a contract entered into by means of placing a purchase order against an existing contract of another public agency.

*Personal Services* means services for which the city is contracting for services related to city owned or occupied personal property. For purposes of this Article, personal services shall include, but not be limited to:

- Any communication, gas, water, electric and power service or similar utility service;
- Insurance, postage, freight and courier services;
- Travel/hotel accommodations;
- Education and training expense;
- Professional subscriptions and memberships;
- Repair or maintenance services for equipment, machinery or other City-owned personal property;
- Repair and maintenance service for City owned or occupied real property and buildings; and
- Rental of real property or equipment and other personal property.

~~Professional Services means services for which the city is contracting for the skill, integrity, judgment, and/or special technical ability of the professional. Professional services includes, but are not limited to, services of engineers, architects, accountants, attorneys, doctors, and similar professionals.~~

~~Professional services means services which exclusively or predominantly involve the exercise and application of analytical skill, professional discretion and independent judgment based on advanced and/or specialized knowledge, expertise or training gained through formal study or experience and where the qualifications of the person(s) rendering the service are of primary importance. These services may include, but are not limited to, those provided by accountants, auditors, appraisers, architects, attorneys, engineers, financial advisors, market analysts, real estate brokers, communications and public relations professionals, grant writers, information technology experts, doctors, instructors, and planners.~~

~~"Professional services" mean any service which is generally characterized as a "profession" rather than a "business," "industry," "occupation" or "trade" under California State law. Without limiting the foregoing, the following types of special services shall be included within the definition of "professional services" under this chapter: accounting; architecture; auditing; business appraisal or valuation; construction project management; construction management and inspection; engineering; environmental; financial planning; insurance; land surveying; landscape architecture; landscape engineering; legal; medical; municipal planning; public housing; real estate appraisal; and real estate brokerage or sales. Moreover, the provision of consulting services with respect to, rather than the actual performance of, any of the foregoing services shall also be deemed "professional services" for purposes of this chapter.~~

~~Public Project. For the purposes of this article, the term "public project" shall mean the erection, construction, reconstruction, alteration, improvement, or repair of any public structure, building, road, street or other public improvement or work, excluding maintenance work, for a cost equal to or greater than that specified in the Public Contract Code § 20162. Public project shall also include furnishing supplies or materials for any such project, including for maintenance and repair of streets or sewers.~~

*Purchases* means purchases of supplies, equipment and personal property, which shall include leases or rentals as well as transactions by which the city acquires ownership.

*Purchasing agent* means the city ~~administrative officer~~ manager or the official designated by the city ~~administrative officer~~ manager for enforcement of this division. The duties of the purchasing agent may be combined with those of another position.

*Responsible bidder* means a bidder who submits a responsive bid and who is not only financially responsible but is possessed of the resources, judgment, skill, ability, capacity and integrity requisite and necessary to perform the contract according to its terms.

*Responsive bid* means an offer submitted by a responsible bidder to furnish supplies, equipment or services in conformity with the specifications, delivery terms and conditions and other requirements included in the invitation for bids.

*Services* means professional services and general services as defined herein. ~~any and all personal, professional, and consultant services, including but not limited to equipment service contracts. The term does not include services rendered by city officers or employees or professional or other contractual services for which the procedure for procurement is specifically provided by law.~~

*Specification* means any description of the physical or functional characteristic, of the manufacturer or of the nature of an item of equipment, a supply, a service, or a construction item. It may include a description of any requirement for inspecting, testing or preparing a supply or service for delivery.

*Supplies and equipment* means any and all articles, things or personal property furnished to or used by any department, including but not limited to janitorial, tree trimming, painting, street sweeping, certain mechanical repair, and similar services not within the scope of section 2-836.

(Code 1957, § 21A.2)

**Cross reference—** Definitions generally, § 1-2.

**Secs. 2-773—2-795. - Reserved.**

## **Subdivision II. - Supplies, Services and Equipment**

**Sec. 2-796. - Appointment of purchasing agent.** Ordinance No. U-1635

~~The city administrative officer~~manager is appointed as the purchasing agent. The city administrative officer ~~manager. The purchasing agent, as defined under this division~~ may designate such personnel as necessary to carry out the duties of the purchasing agent.

(Code 1957, § 21A.3)

## **Sec. 2-797. - General powers of purchasing agent.**

The purchasing agent shall direct and supervise the purchasing program created in this division. The purchasing agent shall appoint such deputies, assistants and other employees as shall from time to time be authorized. The purchasing agent shall endeavor to obtain as full and open competition as possible on all purchases and award all purchases to responsible bidders. The purchasing agent shall furnish the city council with such reports and information as the council may from time to time require and shall establish methods and procedures necessary for the proper functioning of the purchasing program in an efficient and economical manner.

*(Code 1957, § 21A.4)*

## **Sec. 2-798. - Duties of purchasing agent.**

The duties of the purchasing agent may be combined with those of any other office or position. The purchasing agent shall have authority to:

- (1) -Purchase or contract for the supplies and equipment required by any using agency in accordance with the purchasing procedures set forth in this division and such administrative regulations as shall be prescribed by the city ~~administrative officer~~manager.
- (2) -Negotiate and recommend the execution of contracts for the purchases of supplies and equipment.
- (3) -Act to procure for the city the needed quality in supplies and equipment at the least expense to the city.
- (4) -Endeavor to obtain as full and open competition as possible on all purchases.
- (5) -Prepare and recommend to the city ~~administrative officer~~manager rules governing the purchases of supplies and equipment for the city.
- (6) -Prepare and recommend to the city ~~administrative officer~~manager revisions and amendments to the purchasing rules.
- (7) -Keep informed of the current developments in the field of purchasing and the prices, market conditions, and new products.
- (8) -Prescribe and maintain such forms as are reasonably necessary for the operation of this division and other rules and regulations.
- (9) -Supervise the inspection of all supplies and equipment purchased to ensure their conformance with specifications.
- (10) - Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any agency or which have become unsuitable for city use.
- (11) -Maintain a bidders' list, vendors' catalog file, and the records needed for the efficient operation of the purchasing function.

*(Code 1957, § 21A.5)*

### **Sec. 2-799. - Exemptions from centralized purchasing.**

The purchasing agent, with the approval of the city ~~administrative officer~~manager, may authorize any department to purchase or contract for specified supplies and equipment independently of the purchasing agent, but the purchasing agent shall require that such purchases or contracts be made in conformity with the procedures established by this division and shall further require periodic reports from such agency regarding the purchases and contracts made under such authorization.

(Code 1957, § 21A.6)

### **Sec. 2-800. - Compliance required; effect of noncompliance.**

No obligation for the payment for equipment, supplies and services shall be incurred by the city except as prescribed by this division. Any agreement for the purchase of equipment, supplies and services made contrary to this division shall be void, and any claim or demand against the city based thereon shall be invalid.

(Code 1957, § 21A.7)

### **Sec. 2-801. - Duty of bidders and consultants to disclose relationships with city.**

All bidders and consultants shall disclose in writing to the purchasing agent any prior and current business and personal relationships with the city, members of the city council, and city employees prior to entering into any transaction or contractual arrangement with the city exceeding \$25,000.00.

(Code 1957, § 21A.8)

### **Sec. 2-802 – Employee Interest Prohibited.**

No employee, member of the council, nor any appointed member of a city commission, board or committee, shall be financially interested, directly or indirectly, in any purchase order or contract for furnishing equipment, goods, supplies or services within the purview of this division. Any purchase order or contract involving former city employees, members of the council, or any appointed member of a city commission, board or committee, shall be awarded solely by the council at a public meeting.

### **Sec. 2-~~802~~803. - Procedures for purchases and sales generally.**

All purchases of equipment, supplies and service and the sale of surplus personal property shall be carried out in accordance with the procedures provided for in this division and in division 7 of this article. If a bid is submitted by a local bidder as described in section 2-8xx, the purchasing agent shall reduce the amount of the bid by ~~one percent~~the then current local sales tax.

(Code 1957, § 21A.9)



## **Sec. 2-~~803~~804. – Purchase orders.**

Except for purchases authorized under section 2-799, the purchase of equipment and supplies shall be made only by purchase order. No purchase order shall be issued without the prior approval of the purchasing agent or his designated representative. The city shall issue a purchase order 1) to each vendor who agrees to provide equipment, goods, supplies and materials to the city, and 2) to accompany every contract for the performance of services and Public Projects unless otherwise authorized by the city manager or the rules and regulations adopted by the city manager pursuant to this division. Except as otherwise provided herein, no contract shall be deemed to be an authorization to proceed with work unless accompanied by a properly authorized and executed purchase order nor shall any vendor or contracting party be authorized to perform any service, perform any Public Project, or provide any supplies or equipment without first receiving a properly authorized and executed purchase order issued by the purchasing agent upon verification of sufficient unencumbered appropriation balance.

(Code 1957, § 21A.10)

## **Sec. 2-~~804~~805. - Requisitions.**

Departments shall submit requests for equipment and supplies to the purchasing agent by standard requisition forms or by such other means as may be established by the purchasing rules and regulations prior to initiating any procurement.

(Code 1957, § 21A.11)

## **Sec. 2-~~805~~806. - Encumbrance of funds.**

Except in an emergency or when specific authority has been first obtained from the city ~~administrative officer~~ manager, the purchasing agent shall issue no purchase orders whatsoever for supplies, services and equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

(Code 1957, § 21A.12)

## **Sec. 2-807. – Change Orders.**

- A. Any alteration to, amendment of, or deviation from an awarded purchase order or contract as to scope, cost, time for completion, material, or equipment furnished as a part of the purchase order or contract, or any alteration to, amendment of, or deviation from the nature of work to be performed, shall require the completion and issuance of a change order or execution of a contract amendment.
- B. Additions to work cannot be combined with deletions to work to avoid the change order requirement.
- C. If the original purchase order or contract was approved by the city manager, then the city manager or his or her designee may approve a change order for that



purchase order or contract; provided the combined amount of the original purchase order and the change order does not exceed the city manager's purchasing authority. If the original purchase order or contract was approved by the council, then the city manager or his or her designee may approve a change order in an amount that does not exceed the city manager's purchasing authority. All other change orders shall be approved by the council or the person, if any, designated in a contract approved by the council. No change order shall be binding on the city until approved as provided in this division.

D. If a proposed contract modification, change order or request for extra work exceeds the limitations set upon the city manager by this section or resolution and delay in obtaining city council approval is reasonably determined to subject the city to liability for damages incurred by a contractor, or to jeopardize the public health, welfare, or safety, or to otherwise result in potential detriment to the city, then the city manager shall have authority to exceed the dollar amounts specified in the purchasing policy/municipal code. All contract modifications shall be subject to approval as to form by the city attorney.

E. Change orders shall not be issued unless:

1. The change order arises in good faith out of an unknown condition or unforeseen circumstance differing materially from the conditions of the purchase order or contract; or the change order arises due to an error, as determined by the city, in the city's specifications that accompanied the bid solicitation; or the city desires to make a material substitution or addition to the project based on new information obtained during the construction phase of the project; and
2. The change order does not change the purpose of the purchase order or contract; and
3. With regard to a service contract or a contract for Public Project performance, the change order is reasonably related to the scope of work authorized under the original contract; and
4. With regard to the purchase of equipment, goods or supplies, the change order is required to allow the equipment, goods or supplies to fulfill the purpose for which they were intended, and such change order does not authorize the purchase of additional equipment, goods or supplies that could also be purchased from another source and used compatibly with the equipment, goods or supplies purchased.

~~Definitions. For purposes of this section the following words, terms and phrases, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~Emergency means circumstances or conditions that pose an immediate threat to public health, welfare or safety as determined by the city administrative officer for which no time exists to seek council action or approval, if otherwise such action or approval were required.~~

~~Impossible means actual impossibility or extreme and unreasonable difficulty or expenses.~~

~~Impractical means incapable of being performed by the bid procedure.~~

~~Incongruous means not suitable to the bid procedure.~~

~~(a) (1) Exceptions. Purchases of supplies and equipment shall be made in accordance with the bidding procedures pursuant to sections 2-807 and 2-808 of this division. Bidding ~~shall~~ may be dispensed with in the following circumstances: where bidding would be impossible, impractical or incongruous; in an emergency; when the commodity can be obtained from only one vendor or where the price is controlled by law; or when the amount involved is less than \$5,000.00.~~

(a) Where bidding would be impossible, impractical, or incongruous.

(b) Where the price is controlled by law.

(c) When the amount involved is less than \$5,000.

(d) When the needed equipment, supplies or services are proprietary items of original equipment manufacturers and/or their authorized exclusive distributors.

(e) When the equipment is a component for equipment or a system of equipment previously acquired by the city, and is necessary to repair, maintain or improve the city's utilization of the equipment.

(f) When the requesting department determines in writing, after conducting a good faith review of the available sources, that there is only one source for the required equipment, good, supply or service. The department requesting sole source procurement shall provide written evidence to support a sole source determination. Such evidence shall be approved by the purchasing agent. The purchasing agent may require that negotiations be conducted as to price, delivery and terms. The purchasing agent may also require the submission of cost or pricing data in connection with an award under this division or may require that formal or informal bidding procedures be used.

(g) Where items to be purchased are for resale to the public.

(h) Where items to be purchased are computer software, hardware maintenance services or software maintenance services.

(i) When a piggyback contract is available under which:

1. —Competitive bid procedures have already been utilized, such as in purchasing from the federal, California State or county governments, including state of California and agencies of counties, cities and special districts in the state of California, and

2. —The supplies, equipment or services are supplied to the city under the piggyback contract at the same or better price, as was obtained by the vendor, through the federal, state of California agencies and the agencies of counties, cities and special districts in the state of California using the competitive bid procedures.

3. All purchases proposed under this subsection (i) with an estimated value greater than \$25,000.00 per fiscal year shall be subject to City Council approval.

(j) Emergency procurement as set forth in section 2-806.

(k) Contracts for professional, ~~personal, and contract~~ services as set forth in section 2-772.

(l) Where competitive bids or proposals have been solicited and no bid or proposal has been received. In such a situation, the city manager may proceed to have the services performed or the goods procured without further competitive bidding.

(2) The purchasing ~~officer~~agent shall conduct negotiations, as appropriate, as to price, delivery and terms and may require the submission of cost or pricing data in connection with the award of a contract which does not require competitive bidding.

(3) Nothing in this section shall preclude the solicitation of competitive bids or proposals, when possible.

(Code 1957, § 21A.13; Ord. No. 1599, § 1, 3-15-2010)

### **2-810 Interagency Purchase Agreements.**

~~—Cooperative Procurement. Notwithstanding any other provision of this subdivision, the purchasing agent may authorize the City's participation with one or more other governmental, public or quasi-public agencies in a cooperative agreement for the purchase of supplies, materials, equipment and other tangible goods, provided that at least one of the agencies has solicited bids using methods similar to those set forth in this subdivision.~~

~~—Use of Another Entity other prov. The purchasing agent may authorize the purchase of supplies, materials, equipment and other tangible goods through~~

~~the use of a contract initiated by another governmental, public or quasi-public entity, provided (i) the original parties to the contract agree, the contract was duly awarded and executed; (ii) the supplies, materials, equipment and/or tangible goods that the City will receive under the purchase are identical to those provided for under the contract, except that up to 10 percent variation is allowed for customizing to City's needs or for desirable options; and (iii) the contract resulted from a competitive bid using methods similar to those required by this subdivision.~~

~~—All purchases proposed under this subsection with an estimated value greater than \$25,000.00 per fiscal year shall be subject to City Council approval.~~

## **Sec. 2-~~807~~809. - Formal ~~contract bidding~~ procedures.**

Except as otherwise provided in this division, purchases and contracts for supplies and equipment of an estimated value greater than \$25,000.00 per fiscal year shall be by written contract with the lowest responsible bidder pursuant to the following procedure:

(1) ~~-Budget verification.~~ Prior to bid solicitation, the purchasing agent shall confirm the requested purchase is identified in the current fiscal year adopted budget. For items not identified in the current fiscal year adopted budget, the requesting department shall be required to receive City Council approval prior to bid solicitation.

(2) ~~Bid specifications.~~ Bid specifications shall be prepared and include the criteria that must be met to be considered the lowest responsible bidder.

~~(3)~~ Notices inviting bids. Notices inviting bids shall include a general description of the articles to be purchased and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

a. ~~-Published notices.~~ Notices inviting bids shall be published at least ten days before the date of the opening of the bids. Such notices shall be published at least once in a newspaper of general circulation in the city.

b. ~~-Bidders' list.~~ The purchasing agent shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list or who have requested their names to be added thereto.

c. ~~-Bulletin board.~~ The purchasing agent shall also advertise pending purchases by notices posted on the public bulletin board in the city hall.

~~(4)~~ ~~-Bidders' security.~~ When deemed necessary by the purchasing agent, bidders' security may be prescribed in the bid specifications and in the public notices inviting bids. A bidder shall be entitled to the return of bid security upon the successful completion of the contract or upon being the unsuccessful bidder. A successful bidder shall forfeit the bid security upon

the bidder's refusal or failure to execute the contract within ten days after the notice of the award of the contract has been mailed unless the city is responsible for the delay. The council may, on the refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. In such case the amount of the original lowest bidder's security may be applied to the difference between the low bid and the second lowest bid, and the remainder, if any, shall be returned to the defaulting original lowest bidder.

- (3)(5) *-Bid opening procedure.* Sealed bids shall be submitted to the ~~deputy~~ city clerk and shall be identified as a bid on the envelope. Such bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.
- (4)(6) *-Rejection of bids.* At its discretion, the council may reject any and all bids presented and readvertise for bids. The council may waive ~~minor~~ irregularities and infirmities of any bid presented to it.
- (5)(7) *-Award of contracts.* Contracts shall be awarded by the council to the lowest responsible bidder, except as otherwise provided in this section. In awarding a bid, the city may consider those factors listed in the definition of the term "lowest responsible bidder" in [section 2-772](#) in conjunction with the price quotation. Other factors may be included in the bid specifications or may relate to the availability of merchandise or to administrative or processing considerations.
- (6)(8) *-Tie-Equal bids.* If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the council may accept the bid it chooses or accept the lowest bid by negotiation with the bidders at the time of the bid opening.
- (7)(9) *-Performance bonds.* The ~~council~~ purchasing agent shall have the authority to require a performance bond for satisfactory completion, before entering into a contract, in such amount as the ~~council~~ purchasing agent shall find reasonably necessary to protect the best interest of the city. If the ~~council~~ purchasing agent requires a performance bond, the form and amount of the bond shall be described in the notices inviting bids.
- (8)(10) *-No bids.* If no bids are received, the council may authorize the purchase of goods in compliance with informal bidding procedures.

(Code 1957, § 21A.14)

## **Sec. 2-~~808~~10. - Informal bidding-procurement procedures.**

*-Generally.* Purchases of supplies and equipment of an estimated value in the amount of \$25,000.00 or less per fiscal year may be made by the purchasing agent in the open market in the manner provided for in this section without observing the procedure set forth in [section 2-807](#) of this division.

- (a) Budget verification. Prior to ~~bid~~ solicitation, the purchasing agent shall confirm the requested purchase is identified in the current fiscal year adopted budget. For items not identified in the current fiscal year adopted budget, the requesting department shall be required to receive City Council approval prior to ~~bid~~ solicitation.
- (a) ~~Bid specifications.~~ Bid specifications shall be prepared and include the criteria that must be met to be considered the lowest responsible bidder.
- (b) ~~Minimum number of bidsproposals.~~ Open market purchases shall, wherever possible, be based on at least three ~~bids-proposals~~ and shall be awarded to the lowest responsible bidder.
- (c) ~~Notice inviting bids~~ inviting proposals. The purchasing agent shall solicit ~~bids-proposals~~ by written requests to prospective vendors, and/or by telephone, and/or by legal advertising, and/or by public notices posted on the public bulletin board in the city hall. ~~Whenever the purchasing agent believes that the purchase price will exceed \$10,000.00 and telephone solicitation is used, at least five bids shall be obtained.~~
- (d) ~~Written bidsproposals.~~ Written ~~bids-proposals~~ shall be submitted to the purchasing agent who shall keep a record of all open market orders and ~~bids-proposals for a period of one year after the submission of the bids or placing of orders. Such record, while so kept, shall be open to public inspection as set forth in this Division.~~
- (e) ~~City administrative officer's manager's~~ authority. Purchases made pursuant to this section shall be authorized and signed for by the city ~~administrative officer~~ manager or his designee, provided purchases of items authorized by the designee are included as a part of an approved and adopted budget for the city. The limitation affecting the authority of a designee shall not include that person designated as an acting city ~~administrative officer~~ manager in the city ~~administrative officer's~~ manager's absence or unavailability.

(Code 1957, § 21A.15)

## **Sec. 2-811 - Local Bidder Preference**

The city shall give preference to a Local Bidder when awarding any purchase order for the purchase of equipment, goods or supplies; provided, the Local Bidder to be awarded the purchase order will be able to provide equipment, goods or supplies which are equal in quality and meet all bid specifications of the city and of other competing bidders, and the purchase order to be awarded meets one of the following criteria, as determined by the purchasing agent:

- A. The difference between bids from the Local Bidder and a business outside the City is less than, or equal to, the current sales tax benefit the City would receive from the local sales tax; or
- B. Any other reason which would reasonably justify selection of Local Businesses based upon criteria which do not illegally discriminate against outside businesses.



## **Sec. 2-~~809~~812. - Inspections and testing.**

Under this division, the purchasing agent shall inspect supplies and equipment delivered to determine their conformance with the specifications set forth in the order to contract. The purchasing agent shall have the authority to obtain chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications. The city may pay the costs of such tests or may require that the costs of such tests be paid by the bidder.

(Code 1957, § 21A.16)

## **~~Sec. 2-810. - Cooperative agreements. Ordinance No. U-1635~~**

~~No section of this division shall be interpreted or construed to prohibit or prevent the city from purchasing supplies and equipment by contracts, arrangements and agreements for cooperative purchasing programs with the state, the county or with any other public or municipal corporation of the state; provided, however, the contract, agreement or arrangement for such purchases shall be first approved by the council. At the discretion of the council, the purchasing procedure of any agency may be used in such joint power arrangements.~~

(Code 1957, § 21A.17)

## **Sec. 2-~~814~~813. - Minority/women owned or small business purchasing program.**

In implementing this division, the city shall comply with the procedures set forth in the minority/women owned or small business purchasing program adopted by the city council on January 18, 1993, as it exists or may subsequently be amended, to the extent permitted by law. If any conflict occurs between the provisions of the program and this division, this division shall control.

(Code 1957, § 21A.18)

## **Sec. 2-~~812~~814. - Requirements for public projects.**

(a) Notwithstanding any other provision of this ~~division-chapter~~, contracts for public projects, as defined herein, shall be administered by the city's director of public works, or designee, and shall be awarded in accordance with the Uniform Public Construction Cost Accounting Act, public contract code section 22000, et seq., and in compliance with the provisions of this section 2-812. By resolving to become subject to the Uniform Public Construction Cost Accounting Act, the city shall abide by all cost accounting procedures set forth by the California Uniform Construction Cost Accounting Commission in accordance with Article 2 of the Uniform Public Construction Cost Accounting Act, public contract code section 22010, et. seq. To the maximum extent permitted by law, the provision of this

section shall be alternative to any other means provided by law for effecting the completion of public projects. However, nothing contained herein shall limit or preclude the use of "design-build" delivery method provided by public contract code section 20175.2, or any other authority or procedure provided by law, and the city council expressly authorizes the director of public works to utilize any such procedures with the concurrence of the city administrator.

~~(a)~~

(b) *Definitions.* Unless otherwise provided by law, for purposes of this section the following terms shall have those definitions as are set forth next to each:

(1) *-Facility* means any plant, building, structure, ground facility, utility system ~~(subject to the limitation found in subsection (b)(2)c., below)~~, real property, streets and highways, or other public work improvement.

(2) *-Public project* means any of the following:

a. Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility;

b. Painting or repainting of any publicly owned, leased or operated facility;

c. In the case of a publicly owned utility system, "public project" includes only the construction, erection, improvement or repair of dams, reservoirs, power plants and electrical transmission lines of 230,000 volts and higher.

d. A project for the erection, improvement, painting, or repair of public buildings and works.

e. Work is or about streams, bays, waterfronts, embankments or other work for protection against overflow.

f. Street or sewer work except maintenance or repair.

g. Furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers, or water systems

~~e.~~

(3) *Public project* does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

a. -Routine, recurring and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes;

b. -Minor repainting;

c. -Resurfacing of streets and highways at less than one inch;

d. -Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants and servicing of irrigation and sprinkler systems;

e. -Work performed to keep, operate and maintain publicly owned water, power or waste disposal systems, including, but not limited to, dams, reservoirs, power plants and electrical transmission lines of 230,000 volts and higher.

~~e.~~



(c) *Classification of projects.*

- (1) The director of public works shall review all city public projects with respect to the monetary limits imposed by public contract code section 22032, or any successor provision thereto, and shall designate such projects as follows:
  - a. Projects that may be performed with the city's own forces by force account, by negotiated contract, or by purchase order;
  - b. Projects that may be let by contract after informal bidding, and the director shall accomplish such identified projects by informal bidding;
  - c. Projects that may be let by contract only after formal bidding, and the director shall accomplish such identified projects by formal bidding.
- (2) Projects shall not be split to avoid any of the bidding requirements contained in public contract code section 22000, et seq.

(d) *Informal bidding procedures.*

- (1) *Development, maintenance and use of list of qualified contractors.*
  - a. The director of public works shall develop a list of qualified contractors eligible to bid on projects awarded by informal bidding, in accordance with the provisions of public contract code section 22034(a).
  - b. The list shall be organized in accordance with the license classifications of the contractor's state license board.
  - c. Any licensed California contractor may request to be added to the list of qualified contractors at any time by filing a completed application with the director of public works on a form provided by the director. The contractor will be added to the list if the contractor meets all criteria established by the state uniform construction cost accounting commission ("commission.").
- (2) *Plans, specifications and working details.* The director of public works shall prepare and adopt plans, specifications and working details for all contracts awarded by informal bidding to enable a qualified contractor to perform the work required for each contract awarded by informal bidding.
- (3) *Identifying and inviting bids.*
  - a. The director of public works shall mail notice inviting informal bids to all contractors on the list of qualified contractors for the category of work being bid, and/or to all construction trade journals as specified by the commission pursuant to public contract code section 22036.
  - b. The director of public works shall complete the mailing of notices inviting informal bids, as required by this subsection, not less than ten calendar days before bids are due.
  - c. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.
- (4) *Opening of informal bids and award of contract.*

- a. At the time provided in the notice inviting informal bids, the city clerk shall open all bids timely received. If a contract is awarded, it shall be awarded by the city council to the lowest responsible and responsive bidder. If two or more responsive bids are the same and lowest, the city council may award the contract by drawing lots. If no bids are received, the project may be performed by city forces, negotiated contract, or by any other means provided by law, as the city council determines to be in the best interests of the city.
- b. If all competent bids received are in excess of the informal bidding limit, as identified in section 22032(b) of the public contract code, the city council may, by adoption of a resolution by a ~~four-fifths~~majority vote, award the contract, at or below the provisional limit set forth in public contract code section 22034(f), to the lowest responsible bidder, if it determines that the city's cost estimate was reasonable.

(e) *Formal bidding procedures.*

- (1) Contracts for public projects determined by the director of public works to require formal bidding pursuant to the provisions of public contract code section 22032 and subsection (c)(1) above, shall be formally bid and awarded or rejected, in accordance with the provisions of public contract code sections 22037 and 22038.
- (2) The city council shall adopt plans, specifications and working details for all formally bid public projects.
- (3) If a contract is awarded, it shall be awarded by the city council to the lowest responsible and responsive bidder. If two or more bids are the same and the lowest, the city council may accept either bid. If no bids are received, the project may be performed by city forces, negotiated contract, or by any other means provided by law, as the city council determines to be in the best interests of the city.

(f) *Emergency procedures for public projects.*

- (1) When repairs or replacements are necessary in an emergency, the city council, by a four-fifths vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, or working details, or giving notice of bids to let contracts, and without otherwise complying with the requirements of this ~~division~~chapter. For purposes of this section the term "emergency" shall mean a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Prior to taking such action, the city council shall make a finding, based on substantial evidence in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to an emergency. The work may be done by day labor, by contract, or by a combination of the two. If notice for bids to let contracts is not given, the city shall comply with public contract code section

22050. For the purposes of this section, the city administrator is hereby delegated the authority to declare the public emergency in such circumstances when it is not feasible for the council to meet to do so, and take such actions as he or she deems necessary, consistent with the provisions of this section. The city administrator's actions shall be subject to prompt review by the city council as to the need to continue the emergency action, in accordance with the provisions of section 22050.

(g) Design Build

(1) The awarding of a design-build contract may be made in accordance with the statutory procedure which results in the issuance of a design-build request for proposal. See Pub Cont C §20175.2(d). The design-build contract may be awarded to the lowest responsible bidder, or the city may award the contract based on a "best value" determination described in the code. Pub Cont C §20175.2(a)(2). The "best value" competition provides an alternative to competitive bidding and award to the lowest bidder. See Pub Cont C §20175.2(c)(1).

The following varieties of procurements are exempt from the formal competitive bidding requirements of Section 2.812(e)(1) above:

1. Single Source or Sole Source Procurements. An item or service shall be considered single source or sole source if such item or service is essentially unique and can only be met solely by a single patented, copyrighted or proprietary article or process available from a single or sole source. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer, or an item where compatibility with supplies, equipment, materials, general services or processes already in use by the city is the overriding consideration.

2. Cooperative purchases (or piggyback purchases) where such purchases (a) have already been made using the competitive bidding procedures of another public agency; or (b) are conducted in accordance with the procedures of the California Multiple Award Schedules Program (the "CMAS Program"), the U.S. General Services Administration, the United States Communities Government Purchasing Alliance or any similar cooperative purchasing program. The foregoing notwithstanding, in order to qualify as a cooperative purchase exempt from the formal competitive bidding requirements of this chapter, the cost or unit price of the supplies, materials, equipment or general services procured must be equal to or less than the price paid by the public agency, organization or association with whom the cooperative purchase is made.

~~3. The purchase of items for which there is no competitive market such as memberships in professional organizations or industry organizations; registration fees for conferences, meetings or other like business-related events; or subscriptions to professional or trade journals and/or periodicals.~~

~~4. Emergency Procurements. To qualify as an emergency procurement exempt from the formal competitive bidding requirements of this chapter, the procurement must be made for the purpose of responding to an "emergency" within the meaning of Section 1102 of the California Public Contract Code. All emergency procurements shall be conducted in accordance with the procedures set forth under Section 22050 of the California Public Contract Code.~~ Add piggybacking, sole source information.

### **Sec. 2-815. – Waiver of Purchasing Processes.**

~~W~~The city council may approve waiving any or all purchasing system processes if it determines it is in the best interest of the City to do so. A typical basis for waiving would be a unique cost savings, or revenue generating, opportunity for the City.

*(Ord. No. U-1598, § 2, 3-1-2010; Ord. No. 1599, § 2, 3-15-2010)*

**Secs. 2-~~813~~816—2-835. - Reserved.**

### **Subdivision III. - Contracts for ~~Consultants or Special Services~~ Personal Professional and Consultant Services**

#### **Sec. 2-836. - Scope.**

~~Any specially trained and experienced person for special services and advice in financial, economic, accounting, engineering, legal or administrative matters<sup>1</sup>.~~  
Professional service, as defined section 2-772, ~~may be contracted with by the city~~ only in the manner set forth in this subdivision.

*(Code 1957, § 21A.26)*

#### **Sec. 2-837. — Procedure and Authorization.**

~~(a) Council. The council shall have sole authority to approve and enter into all contracts specified in section 2-836 of this subdivision.~~

~~(b) City administrative officer. Notwithstanding subsection (a) of this section, the city administrative officer shall be authorized to either:~~

~~(1) Enter into contracts for special services and consultants, subject to each and every one of the following limitations and restrictions:~~

- ~~a. The contract is for a sum not to exceed \$25,000.00 to be paid by the city;~~
- ~~b. The contract shall not result in or potentially require the city to be liable for a significant loss of money or other thing of value beyond the contract price to the city;~~
- ~~c. The funds required for the payment of the contract shall be included in the city's approved and current budget for that purpose;~~
- ~~d. The contract has the prior approval of or shall be subject to ratification by the council (ratification may be in the form of approval of the budgeted demand for payment or partial payment thereof);~~
- ~~e. The contract shall not have, may not result in, or be the result of a significant policy decision necessitating prior council review and approval; and~~
- ~~f. The contract shall not be for legal services or legal consultation.~~

~~(2) Enter into contracts for special services and consultants to be paid by third parties, subject to each and every one of the following limitations and restrictions:~~

- ~~a. The funds required for the payment of the contract shall be provided to the city by the third party in advance and held by the city in a separate account designated for payment of the contract;~~
- ~~b. The contract shall not result in or potentially require the city to be liable for a significant loss of money or other thing of value;~~
- ~~c. The contract shall not have, may not result in, or be the result of a significant policy decision necessitating prior council review and approval; and~~
- ~~d. The contract shall not be for legal services or legal consultation.;~~

Purchase of professional and specialized services by persons, firms, companies, or corporations (including, but not limited to, architecture, landscape architecture, engineering, environmental, land surveying, legal, accounting or construction management) shall be made on the basis of demonstrated competence and experience of the service provider and on the professional qualifications necessary for the satisfactory performance of the services required. The purchasing supervisoragent shall attempt to obtain information relating to prices and availability of such professional or specialized services from different sources prior to making the purchase; however, neither formal nor informal bidding shall be required prior to the purchase of professional or specialized services.

3. Authority to approve a professional service agreement shall be as specified in Section xxx, below.

*(Code 1957, § 21A.27; Ord. No. 1601, § 1, 12-6-2010)*

## **Sec. 2-838. – Multi-year Contracts.**

Unless otherwise limited by the City's Charter, this Code or applicable state or federal law, the term of a contract shall be as set forth in the contract, and may include extensions as authorized in the contract. The city manager may approve a multi-year contract; provided, the annual value of the multi-year contract as extended does not exceed the city manager's purchasing authority. Otherwise, multi-year contracts shall require the approval of the council. In the event the same supplier, contractor or consultant has been utilized for a period of five (5) years, the formal or informal bidding procedures as set forth in section 2-807 and section 2-808 of this division shall apply.

## **Sec. 2-~~838~~839. - Authorized signature on behalf of city.**

(a) *Mayor.* The mayor shall be authorized to sign, on behalf of the city, all approved contracts provided for in this subdivision. In the absence of the mayor, the ~~mayer pro tempore vice mayor~~ shall be so authorized.

(b) *City ~~administrative officer~~manager.* The city ~~administrative officer~~manager shall be authorized to sign, on behalf of the city, all contracts provided for in subsection 2-837(b) of this subdivision and such other approved contracts as the council may specifically direct from time to time.

(Code 1957, § 21A.28)

## **Secs. 2-~~839~~840—2-865. - Reserved.**

## **Subdivision IV. Procurement Records**

### **2-785 Procurement records - Public inspection.**

A. *Records Maintenance.* The purchasing agent shall maintain records for each procurement which include, at a minimum, the procurement request from the department or division requesting the procurement; the bid or proposal documents for the procurement, if any; any and all bids or proposals received; the basis on which contract award is made; and a copy of any and all contracts awarded. Such records shall be maintained for a period of time in compliance with state law and the city's records retention schedule and shall be available for public inspection during normal city business hours.

B. *Public Inspection.* Informal and formal competitive bids not involving competitive negotiation shall be available for public inspection following the date and time set for receipt of bids. Informal and formal competitive proposals and formal competitive bids involving competitive negotiation shall be available for public inspection following contract award or rejection.

## Subdivision V. Bond and Insurance Requirements

### 2-786 Bonds and other security - Insurance requirements.

A. *When Required.* The purchasing agent shall have the authority to require bid, performance and payment security or specific types and amounts of insurance coverage for specific procurements to the extent required by state law or upon a determination that it is in the best interest of the city to do so.

B. *Bid Security.* Bid security, if required, shall be submitted with the bid and shall be a certified check, cashier's check or surety bond issued by an admitted surety insurer authorized to conduct business in the state of California. If a bidder fails to submit the required bid security with the bid, the bid shall be deemed nonresponsive. After bids are opened, bid security is irrevocable for the period specified in the invitation for bids. If the successful bidder fails to execute the contract within the time specified, the total amount of the bid security shall be forfeited to the city. The security of an unsuccessful bidder shall be returned to the bidder no later than sixty calendar days from the date of contract award.

C. *Performance Security.* Performance security, if required, shall be in the form of a bond acceptable to the city and issued by an admitted surety insurer authorized to operate in the state of California.

D. *Form of Bonds.* The only bonds acceptable to the city shall be those executed on forms approved by the city attorney and included with the bid or proposal documents.

E. *Insurance.* The risk and insurance manager shall develop uniform insurance requirements for procurements and shall review and update the insurance requirements periodically. The successful bidder shall submit certificates of insurance and endorsement forms, as applicable, as evidence that it has the type and amount of insurance coverage required by the bid or proposal documents. Such evidence shall be submitted to the purchasing agent promptly upon request and shall be issued by an admitted insurer authorized to operate in the state of California and acceptable to the city.

F. *Indemnity for Infringement of Patents, Copyrights or Trademarks.* In addition to any other indemnity provisions recommended by the City Attorney or otherwise

included in a contract for good and services, each contractor must hold harmless and fully indemnify the city and its officers, employees and agents from all damages or claims for damages, costs or expenses in law or equity that may arise for any infringement of the patent right, copyright or trademark of any person as a consequence of the use by the city or any of its officers, employees or agents, of goods supplied under a contract.





## AGENDA REPORT

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**To:** Chair Robert C. Gonzales and Committee Member Joel Fajardo

**From:** Brian Saeki, City Manager  
By: Nick Kimball, Finance Director

**Date:** January 26, 2016

**Subject:** Presentation of Fiscal Year 2014-2015 Comprehensive Annual Financial Report

### **RECOMMENDATION:**

It is recommended that the Budget, Personnel and Finance Standing Committee:

- a. Receive and file a presentation of the fiscal year 2014-2015 Comprehensive Annual Financial Report.

### **BACKGROUND:**

1. The City Code requires an annual audit to be conducted by independent certified public accountants shortly after the end of each fiscal year. The audit is conducted, and financial statements prepared, in accordance with generally accepted accounting principles (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB).
2. The financial statements were audited by Van Lant & Fankhanel, LLP; a public accounting firm fully licensed and qualified to perform audits of State and local governments within the state of California.
3. The audited financial statements, in conjunction with the accompanying notes, discussion, and analysis, are presented in a Comprehensive Annual Financial Report to provide a thorough and detailed presentation of the City's financial condition at a particular point in time (i.e. the end of the fiscal year).
4. On December 28, 2015, the Comprehensive Annual Financial Report for fiscal year ending June 30, 2015 ("2015 CAFR") was completed and posted to the City's website for public review.
5. The 2015 CAFR has been submitted to the Government Finance Officers Association (GFOA) for consideration of the Certificate of Achievement for Excellence in Financial Reporting Award. The award is presented to government agencies whose comprehensive annual

financial reports achieve the highest standards in government accounting and financial reporting. With a few exceptions, the City has received this award consistently over the last 26 years.

## **ANALYSIS:**

The CAFR consists of four parts: 1) Management's Discussion and Analysis, 2) the basic financial statements, 3) required supplementary information, and 4) *optional* combining statements for non-major governmental funds.

Within the basic financial statements are three components: 1) Government-wide Financial Statements 2) Fund Financial Statements and 3) Notes to the Financial Statements. The Government-wide Financial Statements provide the broadest picture of the City's finances as they include all of the City's thirty funds (including the General Fund and Enterprise Funds). The Fund Financial statements are a subset of the Government-wide Financials as they present each fund's financial statements individually. The Notes to the Financial Statements provide detail explanations.

Both the Government-wide Financials and Fund Financials include two basic statements: 1) *Statement of Net Position*, which presents information in terms of total assets, liabilities and net position (i.e. assets less liabilities), and 2) *Statement of Activities*, which shows how the net position has changed during the most recent fiscal year through revenues (increase in net position) and expenditures (decrease in net position).

Below are some key highlights of the 2015 Audit:

*Government-wide Financials.* The City's total net position, which includes the General Fund, Enterprise Funds, and all Special Revenue Funds, decreased from \$63,052,833 as of June 30, 2014 to \$33,948,425 as of June 30, 2015; a total decrease of \$29,104,408. Over time, net position may serve as an indicator of the City's financial position.

The dramatic decrease in net position is the result of a new reporting requirement by the Government Accounting Standards Board, Statement No. 68 (GASB 68). GASB 68 requires governments providing defined benefit pensions (e.g. CalPERS) to recognize long-term obligations for pension benefits as a liability, and to more comprehensively and comparably measure the annual costs of pension benefits. As a result of GASB 68, the City's long-term net pension liability increased by \$26,809,903. Additionally, the City's long-term Other Post-Employment Benefit (OPEB) obligation for retiree healthcare increased by \$1,812,248 to \$10,916,264.

The City's total net position is made up of the following:

1. Capital Assets (e.g. land, buildings, infrastructure, vehicles, etc.) - \$60,591,272
2. Restricted (e.g. transportation, housing, grants) - \$5,887,197
3. Unrestricted – **(\$32,530,044)** *\*Deficit due to pension and retiree health liabilities.*

*General Fund Financials.* As of June 30, 2015, the total deficit fund balance for the General Fund decreased from **(\$5,693,905)** to **(\$4,114,045)**. The total deficit reduction from June 30, 2014 to June 30, 2015 was \$1,579,860.

The General Fund fund balance is made up of the following:

1. Restricted for:
  - a. Inventories - \$38,156
  - b. Prepaid items - \$2,787
  - c. Advances to Other Funds - \$329,604
2. Unrestricted - **(\$4,485,592)** *\*Deficit due to the amount owed to the Retirement Fund.*

*Finding 2015-1.* The City received one significant Finding (Finding 2015-1) related to the General Fund's continued deficit fund balance. This is the sixth year in a row that the City has received this particular Finding, and we will continue to receive the finding until the deficit is eliminated. The Finding, including Management's response, is included as Attachment A.

Management encourages readers to read both the Transmittal Letter and Management's Discussion and Analysis to get a better contextual understanding of the financial information presented in the CAFR.

#### **BUDGET IMPACT:**

Funds to prepare the 2015 CAFR were included in the fiscal year 2015-2016 Adopted Budget. There is no budget impact to receiving and filing a presentation on the 2015 CAFR.

#### **CONCLUSION:**

This year's audited financials present mixed signals. Although the General Fund deficit decreased by \$1.5 million, it continues to have a large deficit fund balance of (\$4.1 million). Also, the total City-wide "net worth" decreased by \$29.1 million due to long-term pension and retiree health obligations. Please note, with regards to the long-term pension and retiree health obligations, the obligation did not increase; there was a new nation-wide governmental reporting requirement that took effect in fiscal year 2014-2015 that required the City report the obligations on our balance sheet. Like San Fernando, many cities throughout the United States will be experiencing a significant erosion in net position.

**ATTACHMENTS:**

- A. Finding 2015-1 with Management's Response
- B. PowerPoint Presentation

**CITY OF SAN FERNANDO  
SCHEDULE OF FINDINGS AND RESPONSES  
Year Ended June 30, 2015**

*2015-1: Deficit Fund Balance*

Finding:

The following is a continuation from prior years:

The City's General Fund had a total deficit fund balance of \$4,114,045 as of June 30, 2015. Although the General Fund experienced an increase in fund balance of \$1,579,860 during the 2014-15 fiscal year, approximately \$1 million of this increase was related to a one-time sale of property. In addition, the excess revenues over expenditures in the current year do not take into account the increase in the Other Post-employment Benefits (OPEB) liability which is increasing approximately \$1.8 million each year. As of June 30, 2015, the City has a cumulative OPEB liability of \$10.9 million. This is the amount, based on actuarial calculations, that the City should have contributed to the OPEB plan over the past several years, but has not. Also, retirement benefits costs are increasing significantly each year. Expenditures will continue to increase in the future, because of these issues.

It is essential that governments, including the City, maintain adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures). Fund balance levels are a crucial consideration in long-term financial planning.

The Government Finance Officers Association (GFOA) has developed a "Best Practice" in this area. They recommend that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund. As described by GFOA, "the adequacy of unrestricted fund balance in the general fund should be assessed based upon a government's own specific circumstances. Nevertheless, GFOA recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures. The choice of revenues or expenditures as a basis of comparison may be dictated by what is more predictable in a government's particular circumstances."

Although the City has taken certain steps to address these issues, we recommend the City continue in its efforts to establish a long-term plan to eliminate fund deficits and interfund borrowings, and create an appropriate level of General Fund reserves for the future. The City should consider referring to GFOA's Best Practice in developing a long-term plan.

**CITY OF SAN FERNANDO**  
**SCHEDULE OF FINDINGS AND RESPONSES**  
**Year Ended June 30, 2015**

*2015-1: Deficit Fund Balance - Continued*

Management's Response:

Eliminating the General Fund deficit, addressing the City's long term Other Post Employment Benefits liability, and ensuring long-term sustainability of the City's pension program are top priorities for the City Council and City management. In accordance with GFOA Best Practices, the City Council adopted a Budget Policy and Comprehensive Financial Policy in November 2014 to formalize the City's commitment to long-term financial stability. The Comprehensive Financial Policy includes a target Contingency Fund balance of twenty percent (20%) of the adopted General Fund operating expenditures, which exceeds the minimum recommended by GFOA. Additionally, the City developed a five-year financial forecast for the General Fund that lays out the plan to eliminate the deficit by fiscal year 2019-2020.

*General Fund.* The City's General Fund has been in a deficit fund balance position since FY 2010-2011. The City has taken a number of steps over the last three years to stabilize ongoing finances, including re-negotiating labor contracts, reducing programs and services, reducing professional development, travel, and memberships by City staff, implementing layoffs and furloughs, and freezing vacant positions. As a result, the General Fund deficit has decreased from (\$5,693,905) as of June 30, 2014 to (\$4,114,045) as of June 30, 2015. However, many of these were short-term fixes that were necessary to remain solvent; continuing these cuts is not sustainable in the long-term. Consequently, staff has worked with City Council to implement a multi-year plan to eliminate the General Fund deficit, which includes a balance of ongoing revenue enhancements and targeted expenditure reductions.

In 2013, the City declared a fiscal emergency and held a special election for a temporary one-half (½) cent transaction and use tax, which was approved by sixty percent (60%) of voters. This transaction tax, also referred to as "Measure A," will sunset in October 2020.

The transaction tax is projected to raise approximately \$2 million per year in general revenue and is necessary to fund a number of critical one-time needs. Since the transaction tax is temporary and will sunset in 2020, it is prudent to use the funds raised through the tax on non-recurring expenditures. Consequently, transaction tax revenue has been earmarked to address the following needs: 1) establish General Fund and Self Insurance Fund reserves, 2) pay off existing debt, 3) re-establish the City's Equipment Replacement Fund, 4) replace and update the City's outdated computer hardware, software, and telecommunications systems, 5) establish a trust to pre-fund Other Post-Employment Benefits (OPEB), and 6) fund overdue capital projects to reduce the City's deferred infrastructure and maintenance costs.

In addition to the revenue raised by Measure A, the City has taken a number of steps in the last eighteen (18) months to address the City's deficit and improve long-term financial stability, including:

**CITY OF SAN FERNANDO**  
**SCHEDULE OF FINDINGS AND RESPONSES**  
**Year Ended June 30, 2015**

*2015-1: Deficit Fund Balance - Continued*

- Renegotiated the Fire and Emergency Services contract with the Los Angeles Fire Department to reduce the City's annual cost without reducing service;
- Transferred operational and financial responsibility of the San Fernando Regional Pool to the County of Los Angeles;
- Retired debt from the outstanding California Housing Financing Agency (CHFA) and Section 108 Loans;
- Developed a five-year General Fund projection of revenues and expenditures;
- Adopted a Development Agreement Ordinance to provide additional tools to increase economic development efforts;
- Sold surplus land and used the land sale proceeds to reduce the City's deficit;
- Restructured future retiree health benefits to decrease the City's OPEB liability; and
- Updated the City's long term financial planning policies, including budget, purchasing, debt management, grant management, investment, and reserve policies, with an emphasis on creating long term fiscal sustainability.

To continue implementation of the deficit elimination plan in FY 2015-2016, the Adopted Budget includes the following:

- Funding to complete a user fee and cost allocation plan to ensure the City is adequately recovering costs for certain services;
- Funding to replace the City's network server infrastructure;
- Funding to re-establish a Self-Insurance Fund reserve;
- Funding to re-establish an Equipment Replacement Fund; and
- Funding to partner with a professional services firm to increase resources available to bolster the City's business license program, increase compliance, and collect ongoing revenue due to the City.

Despite the progress that has been made in the past year and the investments being funded in the upcoming fiscal year, the City is still facing a significant General Fund deficit and must continue to implement best financial management practices, protect revenues, and strategically appropriate funds based on sound cost-benefit analysis.

**CITY OF SAN FERNANDO**  
**SCHEDULE OF FINDINGS AND RESPONSES**  
**Year Ended June 30, 2015**

*2015-1: Deficit Fund Balance - Continued*

The deficit elimination plan was developed with the understanding that the General Fund deficit is a result of many years of financial problems, some of which have been beyond the City's control (e.g. the "Great Recession" and dissolution of redevelopment) and others that were self-inflicted. It will take many years to dig the City out; however, if the preceding financial and operational elements continue to be implemented, the City will be successful in eliminating the General Fund deficit and building a strong financial base for the future.

*Other Post-Employment Benefits (OPEB).* In the first quarter of fiscal year 2015-2016, the City completed negotiations with all bargaining units. The City was successful in restructuring retiree medical benefits for employees hired on or after July 1, 2015. As a result, the City will provide the minimum retiree health benefit required by the Public Employees Medical and Health Care Act (PEMHCA), which is \$122 per month for calendar year 2015 and adjusted by CalPERS annually to account for inflation. This will result in a significant long term savings as current employees retire and are replaced by new employees. The City will continue to explore options to fund the Annual Required Contribution in the future.

*Retirement Benefits.* Despite the rising cost of retiree pensions, the City is uniquely positioned to fully fund these costs going forward. San Fernando is one of a handful of California cities that has a local property tax restricted to pay pension costs, which ultimately limits the exposure of increased pension rates on the City's General Fund. The City may levy a tax, up to 0.28% of assessed property value, to fund the City's pension obligation annually. For fiscal year 2015-2016, the City was able to fully fund the annual pension obligation with a levy of 0.24% of assessed values.

The Retirement Fund, which accounts for the proceeds of the retirement tax levy, has a healthy fund balance of \$5 million to absorb future increases in pension costs without creating an additional burden on local tax payers. The Retirement Fund is expected to remain healthy due to recent legislation (SB 107) clarifying that local retirement tax levies that were being previously being remit to former redevelopment agencies shall be remit to local cities provided they are not required to pay debt service on existing debt. This will further bolster the fund balance in the Retirement Fund and allow the City to further reduce the long-term pension liability.

Despite the ability to levy a retirement tax, the City recognized the need to curb long-term pension costs and create a sustainable long term benefit. Consequently, the City reduced pension benefits for new employees in 2005. Moreover, the California Legislature passed the Public Employees' Pension Reform Act (PEPRA), which took effect in 2013 and further reduced pension benefits for new City employees. All of these actions will ultimately reduce the City's long term pension costs and limit the General Fund's exposure to costs that exceed the maximum tax levy as legacy employees are replaced with new employees.





## AGENDA REPORT

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**To:** Chair Robert C. Gonzales and Committee Member Joel Fajardo

**From:** Brian Saeki, City Manager  
By: Nick Kimball, Finance Director

**Date:** January 26, 2016

**Subject:** Presentation and Discussion of Fiscal Year 2016-2017 Proposed Budget Calendar

### **RECOMMENDATION:**

It is recommended that the Budget, Personnel and Finance Standing Committee:

- a. Review the proposed Budget Calendar (Attachment "A") for Fiscal Year 2016-2017; and
- b. Provide direction, as necessary.

### **BACKGROUND:**

1. The City's fiscal year begins on July 1<sup>st</sup> each year and City Council is required to hold a public hearing and adopt a budget for the upcoming fiscal year on or before July 20<sup>th</sup>.
2. In order to meet the budget adoption deadline and give City Council and the public sufficient time to review and consider the City Manager's proposed budget, staff begins making preparations for the budget process in January each year.
3. A Budget Calendar is an important planning tool for completing the budget process in a timely manner.

### **ANALYSIS:**

Producing an annual budget is a very complex activity that requires a great deal of data, and cooperation, from several departments. Additionally, there is a specific order in which budget information and data needs to be received to ensure the proposed budget is produced in an efficient manner.

## **Presentation and Discussion of Fiscal Year 2016-2017 Proposed Budget Calendar**

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To facilitate an efficient budget process, staff has developed a proposed calendar of events for the fiscal year 2016-2017 budget process. The purpose of a budget calendar is to provide all parties involved with deadlines for submitting data and budget requests.

A summary of some of the important dates, including the budget study session(s) and budget adoption, are as follows:

### **Tuesday, February 16, 2016**

City Council Study Session to review

1. Fiscal Year 2014-2015 Audited Financial Statements (CAFR)
2. Fiscal Year 2015-2016 Mid-year Budget
3. Fiscal Year 2016-2017 Budget Outlook

### **Monday, April 18, 2016**

City Council agenda item to discuss City Council priorities for Fiscal Year 2016-2017

### **Thursday, May 12, 2016**

Fiscal Year 2016-2017 Proposed Budget Book distributed to City Council

### **Monday, May 16, 2016**

Budget Study Session

### **Monday, May 23, 2016**

Budget Study Session (if necessary)

### **Monday, June 20, 2016**

Budget Adoption

## **BUDGET IMPACT:**

There is no budget impact associated with reviewing the proposed Budget Calendar.

## **CONCLUSION:**

Review of the proposed Budget Calendar will facilitate a smoother and more efficient budget process.

## **ATTACHMENTS:**

- A. Proposed FY 2016-2017 Budget Calendar



## BUDGET CALENDAR

Time Frame	Task	Department(s)
January – April 2016	Review and calculate revenue projections for General Fund, Special Revenue Funds, Enterprise Funds and Capital Projects Funds.	Finance
February 2016	Review/Update salary projections.	Personnel, Finance
February 16, 2016	City Council Study Session to review: <ul style="list-style-type: none"> <li>• FY 2014-2015 Audited Financial Statements</li> <li>• FY 2015-2016 Mid-year Budget</li> <li>• FY 2016-2017 Budget Outlook</li> </ul>	Administration, Finance
February/March 2016	Prepare/update budget instructions and forms for departments to complete during budget development.	Finance
March 22, 2016	City Manager meets with Department Heads to discuss the budget schedule and provide direction regarding budget guidelines (e.g. Maintenance of effort, only funded enhancement requests, etc.). Budget forms distributed.	All Departments
March 22 - 31, 2016	Departments review and complete budget forms.	All Departments
April 4 - 8, 2016	Preliminary review of department budget forms, including review of enhancement and Capital requests.	Administration, Finance
April 11 - 14, 2016	City Manager/Finance Director meetings with Department Heads to discuss budget requests.	All Departments
April 18, 2016	Agenda item to discuss Council priorities for Fiscal Year 2016-2017	Administration, Finance
April 28, 2016	Finalize City Manager's recommendations.	Administration, Finance
April/May 2016	Prepare Proposed Budget document.	Administration, Finance
May 12, 2016	Give Proposed Budget to City Council.	Administration, Finance
May 16, 2016	Budget Study Sessions.	All Departments
May 23, 2016	If necessary, special meeting to continue Budget Study Sessions.	All Departments
May/June 2016	Update Proposed Budget based on direction provided at Budget Study Sessions.	Administration, Finance
June 2, 2016	Publish Notice of Public Hearing for budget adoptions.	City Clerk
June 20, 2016	Budget hearing and adoption, including adopting of Gann Limit.	Administration, Finance
July 1, 2016	Post adopted budget to the City's Finance system.	Finance
Jul/Aug 2016	Produce Adopted Budget book, distribute to City Council, post to the City's website, and submit for GFOA Award.	Finance